

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Truth-in-Billing and Billing Format	)	CC Docket No. 98-170
	)	
National Association of State Utility Consumer	)	CG Docket No. 04-208
Advocates' Petition for Declaratory Ruling	)	
Regarding Truth-in-Billing	)	
_____	)	

**COMMENTS OF THE UNITED STATES TELECOM ASSOCIATION**

The United States Telecom Association (USTelecom)<sup>1</sup> submits its comments through the undersigned and pursuant to the Federal Communications Commission's (FCC's or Commission's) Second Further Notice of Proposed Rulemaking<sup>2</sup> in the above-referenced dockets. In the Second FNPRM the Commission seeks comment on a number of billing matters that have their origin in the Petition for Declaratory Ruling (Petition) filed by the National Association of State Consumer Advocates (NASUCA). The NASUCA Petition requested that the Commission eliminate line item charges, surcharges, and separate fees that are not expressly mandated by federal, state or local government, claiming that these charges and fees allow unscrupulous carriers to hide or mislabel unauthorized charges and that when these charges and

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<sup>1</sup> USTelecom is the nation's leading trade association representing communications service providers and suppliers for the telecom industry. USTelecom's carrier members provide a full array of voice, data, and video services across a wide range of communications platforms.

<sup>2</sup> *Truth-in-Billing and Billing Format; National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-in-Billing*, Second Report and Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking, CC Docket No. 98-170 and CG Docket No. 04-208, FCC 05-55 (rel. Mar. 18, 2005) (Second Further Notice of Propose Rulemaking or Second FNPRM).

fees are not sufficiently described they cause consumer confusion.<sup>3</sup> USTelecom opposed the NASUCA Petition, stating that the solution to NASUCA's claims "is not to impose the new rules that NASUCA requests, but to address carrier non-compliance [with the Commission's already clear guidance on bill descriptions] on a carrier-specific basis for violation of section 201(b) of the [Communications Act of 1934, as amended (Act)] Act."<sup>4</sup> As USTelecom noted in its Comments, the Commission need only enforce its rules; it need not impose any further regulation.

Although the NASUCA Petition was denied, the Commission is now considering imposing regulation similar to that addressed in the NASUCA Petition. USTelecom urges the Commission to refrain from imposing further regulation on carrier billing processes, but rather to use its enforcement authority to ensure compliance with its existing truth-in-billing regulations. However, if the Commission determines that it must further regulate carrier's billing processes, then it should find that any charge where money must be remitted to the government is a government mandated charge for billing purposes; that there should be no more than two required sections on a bill (one section for the services provided and another section for government surcharges and fees); and that carriers should be permitted to provide consumers with an approximate amount of government surcharges and fees, upon request, at point of sale.

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<sup>3</sup> *Truth-in-Billing and Billing Format; National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Monthly Line Items and Surcharges Imposed by Telecommunications Carriers*, Petition for Declaratory Ruling, CC Docket No. 98-170, CG Docket No. 04-208 at vii and ¶¶3, 4, 24, and 40 (filed March 30, 2004).

<sup>4</sup> *Truth-in-Billing and Billing Format; National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-in-Billing*, Comments of the United States Telecom Association, CC Docket No. 98-170 and CG Docket No. 04-208 at 3 (filed July 14, 2004) (USTelecom Comments).

Regardless of whether or not the Commission initiates such further regulation, USTelecom encourages the Commission to move forward with preemption of inconsistent state regulation of truth in billing. USTelecom addresses these matters more fully below.

## **DISCUSSION**

### Distinction Between Government Mandated Charges And Other Charges

The Commission seeks comment on the distinction between government mandated and other charges. The distinction between what charges are mandated by the government and what charges are not is important because such classifications may determine whether charges are itemized and where they are placed on a carrier's bill. Importantly, the Commission is seeking comment in the Second FNPRM on its tentative conclusion that carriers must separate government-mandated charges from other charges on their bills when they choose to list charges in separate line items. Carriers should be permitted to group together similar types of charges on their bills (specifically, charges for which the money collected is remitted to the government), whether the charges are expressly mandated or not. USTelecom noted in its comments on the NASUCA Petition "that there are often conflicting interpretations as to what constitutes a 'mandated' charge," explaining that the "Commission *permits* carriers to recover certain costs from subscribers (e.g. universal service contributions), which costs may be recovered through line item surcharges, *but does not mandate* that carriers recover those costs either through their rates or through line item surcharges."<sup>5</sup> Other charges that have not been expressly mandated, but that have been authorized or approved by federal or state agencies include number portability charges and Telecommunications Relay Service charges. Like universal service contribution

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<sup>5</sup> USTelecom Comments at 8-9 (emphasis added).

charges, these charges are also subject to the conflicting interpretation problem. It would be useful and appropriate for the Commission to eliminate such conflicts. Accordingly, for billing purposes, the Commission should find that if the money collected from a specific charge *must* be remitted to the government, whether remitted through a government agency or directly to the U.S. Treasury, then such charge should be deemed to be a mandated charge and one that is grouped on a bill with other expressly mandated charges.

#### Separate Section On Bills For Line Items That Are Mandated Charges

As noted above, the Commission tentatively concluded in the Second FNPRM that carriers must place government mandated charges in a section of the bill that is separate from all other charges when they choose to list mandated charges in separate line items. If the Commission determines that government mandated charges should be placed in a separate section of carriers' bills, the Commission should limit the number of sections required on a bill to two – one section for government mandated charges (including charges that are not expressly mandated, but that are deemed mandated because all money is remitted to the government) and another section for all other service charges. The simplification of requiring only two sections will aid consumers in their ability to understand their bills and will not overly burden carriers with elaborate billing format changes.

#### Point Of Sale Disclosure On Rates, Line Items, And Surcharges

The Commission also tentatively concluded that carriers must disclose the full rate, including any non-mandated line items and a reasonable estimate of government-mandated surcharges, to the consumer at the point of sale. This conclusion is problematic and should be abandoned. While consumers need information about the cost of the services they are

purchasing, it is practically impossible for carriers to provide the information that the Commission has tentatively concluded should be provided and such a requirement would be unduly burdensome. There are a number of charges and fees that vary within a region or even a state (e.g., 911 fees can vary from county to county), that vary from time to time (e.g., universal service contribution charges can vary from one quarter to the next), and that vary with a customer's usage of the services provided (e.g., the number of intraLATA toll calls made by the customer), which would make it practically impossible for a carrier to provide a consumer with an exact amount of the cost of the services being purchased. Rather, the Commission should permit carriers to provide consumers with an approximate cost of the services and a statement that surcharges and other fees will be assessed. If requested, carriers can provide details on the types of surcharges and fees along with an approximate amount of any such surcharges and fees.

#### Preemption Of Inconsistent State Regulation Of Truth-In-Billing Rules

USTelecom agrees with the Commission's tentative conclusion to preempt inconsistent state regulation of telecommunications carrier-specific truth-in-billing rules and supports the Commission's position that such preemption would not limit states' ability to enforce their own generally applicable consumer protection laws. The need for preemption is obvious. Without preemption, any carrier that provides services in more than one state would be stymied by differing state truth-in-billing regulations in their ability to use consistent, uniform, and cost-efficient formatting and labeling on their bills.

### **CONCLUSION**

For the reasons stated above, the Commission should refrain from further regulation of carrier billing processes, but rather use its enforcement authority to ensure compliance with its

existing truth-in-billing regulations. However, if the Commission determines that it must impose additional billing regulations, it should specify that, for billing purposes, government mandated charges include any charge where money must be remitted to the government; require no more than two billing sections on a bill, one of which is for charges that are expressly mandated and deemed mandated by the government; and permit carriers to provide consumers with an approximate amount of any government surcharges and fees at point of sale upon request. Finally, the Commission should preempt inconsistent state regulation of truth in billing.

Respectfully submitted,

UNITED STATES TELECOM ASSOCIATION

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June 24, 2005

**CERTIFICATE OF SERVICE**

I, Meena Joshi, do certify that on June 24, 2005, the aforementioned Comments of The United States Telecom Association were electronically filed with the Commission through its Electronic Comment Filing System and electronically mailed to the following:

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